



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 28, 1995

Mr. Steven M. Kean
Senior Assistant City Attorney
Legal Department
City of Tyler
P.O. Box 2039
Tyler, Texas 75710

OR95-1005

Dear Mr. Kean:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 35094.

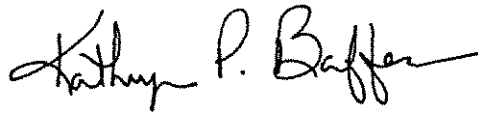
The City of Tyler (the "city") received an open records request for a copy of a particular 9-1-1 call. You have submitted for our review an audiotape of the requested telephone call. You contend that the call is excepted from required public disclosure by section 552.108(a) of the Government Code.

Section 552.108 excepts from required public disclosure all information related to cases under active investigation, except certain basic information ordinarily appearing on the first page of an offense report and in other records of law enforcement. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ *ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). You inform us that the requested audiotape is a record that the city's police department is using in its ongoing investigation of a deadly conduct case. After reviewing the 9-1-1 audiotape you seek to withhold, we conclude that it is excepted under section 552.108. The city may withhold the requested audiotape from disclosure.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records.

If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, reading "Kathryn P. Baffes". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kathryn P. Baffes
Assistant Attorney General
Open Records Division

KPB/rho

Ref: ID# 35094

Enclosures: Submitted audiotape

cc: Mr. Jason Hudson
3114 Faith Lane
Tyler, Texas 75701
(w/o enclosures)